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Letter dated 16 November 2011 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council

I have the honour to transmit herewith the assessments of the President and the Prosecutor of the International Criminal Tribunal for Rwanda on the implementation of the completion strategy of the Tribunal, pursuant to Security Council resolution 1534 (2004), as at 4 November 2011 (see enclosure).

I should be grateful if you would transmit the enclosed report to the members of the Security Council.

(*Signed*) Judge Khalida Rachid **Khan**
President

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Enclosure

Report on the completion strategy of the International Criminal Tribunal for Rwanda

(as at 4 November 2011)

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Introduction

1. In 2003, the International Criminal Tribunal for Rwanda formalized a strategy (completion strategy) to achieve the objectives of completing investigations by the end of 2004, all trial activities at first instance by the end of 2008 and all of its work in 2010, in accordance with Security Council resolution 1503 (2003).

2. The present report, in conjunction with previous submissions to the Security Council pursuant to resolution 1534 (2004), provides an overview of the Tribunal's progress to date in implementing the completion strategy, which has been continuously updated and developed since 2003.[1]

3. As at 4 November 2011, the Tribunal had completed the work at the trial level with respect to 76 of the 92 accused, which included two referrals to national jurisdictions, two withdrawn indictments, and two indictees who died prior to or in the course of the trial. The Tribunal has delivered 50 first-instance judgements involving 70 accused, 9 of whom pleaded guilty. Appellate proceedings have been concluded in respect of 37 persons. Nine fugitives remain at large.

I. Activities in Chambers

A. Activities at first instance

4. The present report covers the period from 13 May 2011 to 4 November 2011. At the beginning of the reporting period, the remaining workload of the Tribunal to be completed included 8 trial judgements with respect to 20 accused, and 10 fugitives remained at large. During the reporting period, the Trial Chambers of the Tribunal rendered three judgements in multi-accused cases and one case began its pretrial phase.[2] The Prosecutor has submitted requests for the referral of four cases to Rwanda, including two for fugitives and two for recently arrested accused.[3] A decision on the first referral application was delivered by the Trial Chamber in June 2011, the appeal of which is currently pending. As at 4 November 2011, judgements remained to be delivered in five ongoing cases. One of the remaining judgements is scheduled to be delivered on 17 November 2011 and another is expected before the end of December 2011.[4] All trial work is expected to finish by the first half of 2012.

5. The three judgements projected in the last completion strategy report (S/2011/317) for delivery in the course of the reporting period were rendered. The

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[1] See the reports submitted to the Security Council on 14 July 2003 and 29 September 2003, in connection with General Assembly resolution 57/289 and the Tribunal's request to increase the number of ad litem judges sitting "at any one time". Reports on the completion strategy were submitted to the President of the Security Council on 30 April and 19 November 2004, 23 May and 30 November 2005, 29 May and 8 December 2006, 31 May and 20 November 2007, 13 May and 21 November 2008, 14 May and 9 November 2009, 25 May and 1 November 2010, and 12 May 2011.

[2] The trial judgements were delivered in *Ndindiliyimana et al.* ("Military II"), *Nyiramasuhuko et al.* ("Butare") and *Bizimungu et al.* ("Government II"), and Bernard Munyagishari was arrested; further explanation is provided in paras. 7-9 and 17.

[3] *Uwinkindi, Munyagishari, Sikubwabo, Kayishema* cases.

[4] *Karemera et. al.* and *Ndahimana* cases; further explanation is provided in paras. 10-11.

major challenge for the coming months remains the completion of the final cases, special depositions, contempt cases, and the review of witness protection orders amid the continued departure of key staff.

6. Despite staffing challenges, this report shows that the Tribunal is at or close to completion of all trial work as projected in the completion strategy report of May 2011 (S/2011/317). In fact, the last trial judgement in a multi-accused case is expected to be delivered before the end of 2011, in line with projections in the past two completion strategy reports.

1. Judgements (annex I.A)

7. On 17 May 2011, a section of Trial Chamber II, composed of Judges de Silva, presiding, Hikmet and Park, rendered oral judgement in the case of *Ndindiliyimana et al.* ("Military II"). The trial commenced in September 2004 and closed on 26 June 2009. The trial involved four former military leaders, Augustin Ndindiliyimana, Augustin Bizimungu, François-Xavier Nzuwonemeye and Innocent Sagahutu. Ndindiliyimana and Bizimungu were both convicted of genocide and crimes against humanity and violations of article 3 common to the Geneva Conventions and Additional Protocol II thereto. Both were acquitted of complicity in genocide and conspiracy to commit genocide. Bizimungu was sentenced to 30 years of imprisonment, and Ndindiliyimana was sentenced to time served and his immediate release was ordered. Nzuwonemeye and Sagahutu were both convicted of murder as a crime against humanity and as a violation of article 3 common to the Geneva Conventions and Additional Protocol II thereto, and acquitted of the remaining charges against them, and each was sentenced to 20 years of imprisonment. During the course of 393 trial days, the Chamber heard a total of 217 witnesses and admitted 977 exhibits. The written judgement was filed on 17 June 2011.

8. On 24 June 2011, another section of Trial Chamber II, composed of Judges Sekule, presiding, Ramaroson and Bossa, rendered oral judgement in the *Nyiramasuhuko et al.* trial ("Butare" case), involving six accused: Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi and Élie Ndayambaje. Nteziryayo was convicted of direct and public incitement to commit genocide. Nyiramasuhuko, Ntahobali, Nsabimana, Kanyabashi and Ndayambaje were convicted of genocide, crimes against humanity, and violations of article 3 common to the Geneva Conventions and Additional Protocol II thereto. Nyiramasuhuko was also convicted of conspiracy to commit genocide; Kanyabashi and Ndayambaje were also convicted of direct and public incitement to commit genocide. The accused were acquitted of the remaining charges against them. The Chamber sentenced Nyiramasuhuko, Ntahobali and Ndayambaje to life imprisonment, Kanyabashi to 35 years of imprisonment, Nteziryayo to 30 years of imprisonment, and Nsabimana to 25 years of imprisonment. During the course of 714 trial days, 59 prosecution and 130 defence witnesses were heard and 913 exhibits were admitted into evidence. The written judgement was filed on 14 July 2011.

9. On 30 September 2011, another section of Trial Chamber II, composed of Judges Khan, presiding, Muthoga and Short, rendered oral judgement in the *Bizimungu et al.* ("Government II") case against four former ministers of the Interim Government that was installed after the assassination of the Rwandan President Juvénal Habyarimana. Justin Mugenzi and Prosper Mugiraneza were convicted of

conspiracy to commit genocide and direct and public incitement of genocide and acquitted of all other charges. Each was sentenced to 30 years' imprisonment. Casimir Bizimungu and Jérôme Bicamumpaka were acquitted on all counts in the indictment, and their immediate release was ordered. The trial spanned 404 trial days, during which 171 witnesses testified and over 8,000 pages of exhibits were entered into evidence. The written judgement was filed on 19 October 2011.

2. Cases in judgement drafting phase (annex I.B)

10. A section of Trial Chamber III, composed of Judges Byron, presiding, Kam and Joensen, began the judgement drafting phase of the *Karemera et al.* case against two former leaders of the Mouvement républicain national pour le développement who were involved in the establishment of the Interim Government (Édouard Karemera and Matthieu Ngirumpatse). Closing briefs were filed on 2 June 2011 and closing arguments were heard from 22 to 25 August 2011. The trial spanned 374 trial days, during which 153 witnesses were heard and 114 witness statements were admitted. The Chamber received over 1,400 exhibits and issued nearly 900 decisions. During the reporting period, the Chamber issued nine decisions. Despite handling pretrial matters in the *Uwinkindi* case, granting three requests from the prosecution for preservation of evidence by special deposition pursuant to Rule 71 bis, and Judge Byron's part-time status as of 1 September, the Chamber is on schedule to deliver the judgement in December 2011 as projected.

11. Another section of Trial Chamber III, composed of Judges Arrey, presiding, Tuzmukhamedov and Akay, heard evidence in the case against Grégoire Ndahimana, a former bourgmestre. The case opened on 6 September 2010 and closed on 12 May 2011. Judgement delivery is expected on 17 November 2011. Judge Tuzmukhamedov is also a member of the bench in *Nzabonimana* and Judge Akay was also sitting on the *Gatete* trial. On 28 June 2011, Judge Arrey, presiding, and Judges Short and Fremr delivered the Rule 11 bis referral decision in *Prosecutor v. Uwinkindi*. The *Ndahimana* legal support team assisted the judges with this decision resulting in minor delays in *Ndahimana* judgement drafting.

12. A section of Trial Chamber III, composed of Judges Bossa, presiding, Tuzmukhamedov and Rajohnson, heard evidence in the case against Callixte Nzabonimana, former Minister of Youth. The case opened on 9 November 2009 and the evidence phase was initially closed on 6 May 2011. The case was reopened to allow for the evidence of an additional defence witness, who was heard on 12 September 2011. The indictment now includes approximately 30 separate factual allegations against the accused, each alleging a serious crime. During the reporting period, the Trial Chamber conducted a site visit from 5 to 9 September 2011 and issued 17 decisions. Oral closing arguments were heard on 20 and 21 October 2011. Judgement delivery is now expected in March 2012, owing to the complexity of the case, the reopening of the evidence phase, and judges sitting in other cases. In parallel with this case, Judge Bossa sat on the bench in the "Butare" case and currently sits on the *Ngirabatware* bench, Judge Rajohnson also sits on the *Ngirabatware* bench, and Judge Tuzmukhamedov is a member of the bench in the *Ndahimana* case.

3. Case where evidence is completed and closing arguments will be heard soon (annex I.C)

13. Another section of Trial Chamber III, composed of Judges Muthoga, presiding, Park and Fremr, is hearing evidence in the case against Ildéphonse Nizeyimana, former second-in-command in charge of intelligence and military operations at the École des sous-officiers during 1994. The Prosecution case commenced on 17 January and closed on 25 February 2011. The Defence case commenced on 9 May 2011 and closed on 16 June 2011. The Chamber heard one final Defence witness on 6 September, three Prosecution rebuttal witnesses on 7 and 8 September, and four rejoinder witnesses on 20 and 21 September. The Chamber conducted the site visit from 3 to 9 October 2011, which marked the close of the evidentiary phase of the case. The Chamber rendered a total of 32 decisions from the start of the Defence case until the end of the reporting period. The parties are scheduled to deliver their oral arguments on 7 and 8 December 2011. Judgement delivery is anticipated in the first quarter of 2012.

4. Ongoing trial (annex I.D)

14. A section of Trial Chamber II, composed of Judges Sekule, presiding, Bossa and Rajohnson, continued hearing evidence in the case against Augustin Ngirabatware, the Minister of Planning in the Rwandan government during 1994. The Defence case commenced on 16 November 2010, and has continued from 13 June through 13 July 2011, from 15 through 31 August 2011, and from 19 September 2011 through the end of the reporting period. The Defence case is anticipated to close in early 2012. During the reporting period, the Chamber rendered 16 decisions and orders. Owing in part to the unanticipated length of the Defence case, as well as to other judicial commitments of those involved in this trial, judgement delivery is now anticipated by the end of June 2012. In parallel with this case, Judge Sekule presided over the "Butare" case, which delivered its judgement on 24 June 2011. Judge Bossa also sat on the bench in the "Butare" trial, and is presiding over the *Nzabonimana* case, which closed its proceedings during the reporting period and is currently in the judgement drafting phase. Judge Rajohnson also sits on the bench in the *Nzabonimana* case.

5. Cases in pretrial phase (annex II)

15. A Referral Bench composed of Judges Arrey, presiding, Short and Fremr, granted the Prosecutor's application for referral of the case against Jean Uwinkindi to the courts of Rwanda on 28 June 2011. Uwinkindi appealed the decision, which is pending before the Appeals Chamber. Uwinkindi made his initial appearance on 9 July 2010, and on 23 November 2010, the Pre-Trial Chamber, composed of Judges Byron, presiding, Kam and Joensen, granted the Prosecution's request for leave to amend the indictment. On 1 December 2010, Uwinkindi had his further appearance before Judge Kam and pleaded not guilty to both counts in the amended indictment.

16. On 25 May 2011, Bernard Munyagishari was arrested in the Democratic Republic of the Congo. He was transferred into the United Nations detention facility in Arusha on 14 June 2011. Munyagishari pleaded not guilty to the counts of conspiracy to commit genocide, genocide, complicity in genocide and murder and rape as crimes against humanity during his initial appearance on 20 June 2011. The Prosecution filed a motion for referral of the case to Rwanda on 3 October 2011. A decision on this is expected after the decision is rendered on the appeal of the

Uwinkindi referral. Trial Chamber III, composed of Judges Khan, presiding, Muthoga and Park, oversees the pretrial work. During the reporting period one order was issued.

6. Other work in the Trial Chambers

Referrals pursuant to Rule 11 bis

17. On 4 November 2010, the Prosecutor filed separate requests for the referral of the cases of Jean Uwinkindi, who was already in the Tribunal's custody, and Charles Sikubwabo and Fulgence Kayishema, both of whom remain at large, to the courts of the Republic of Rwanda. As noted in paragraph 15, the *Uwinkindi* Referral Bench granted the Prosecutor's motion and the matter is now on appeal. In *Sikubwabo* and *Kayishema*, the Bench, comprised of Judges Khan, presiding, Kam and Joensen, decided to defer the proceedings in relation to the referral motion either until the accused are arrested or until a final decision is rendered by the Appeals Chamber in *Uwinkindi*. As is further detailed in paragraph 16, a decision on the 3 October 2011 request for referral to Rwanda in the case against Bernard Munyagishari, who was arrested during the reporting period, is also expected after the *Uwinkindi* appeal is decided.

Rescission of protective measures

18. During the reporting period, the Tribunal was seized of a number of requests from the Witnesses and Victims Support Section for rescission of protective measures of witnesses in completed cases. The President appointed a Chamber to adjudicate on those requests. Five decisions have been rendered thus far.

Special depositions pursuant to Rule 71 bis

19. In February 2011, the Prosecutor filed motions for the preservation of evidence for a future trial in the cases of three fugitives accused: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. In each case, the same Trial Chamber designated to consider the motion pursuant to Rule 71 bis, composed of Judges Byron, presiding, Kam and Joensen, authorized the preservation of evidence by special depositions. Judges Joensen, Arrey and Kam were subsequently appointed as single judges to preside over the special deposition proceedings in the cases against Kabuga, Mpiranya and Bizimana, respectively.

20. The special deposition proceedings in the *Kabuga* case commenced on 23 May 2011 and continued after the judicial recess. The Prosecution concluded the preservation of its evidence on 27 October 2011. Thus far, the presiding judge has heard 25 Prosecution witnesses over the course of 30 courtroom days. On 4 November 2011, the Chamber granted, in part, the Duty Counsel's motion for authorization to conduct investigations with the intention of calling witnesses eventually. The Chamber gave the Duty Counsel until 15 December 2011 to file a motion, if any, for the preservation of evidence relevant to the case of the accused. At that point, the Chamber will decide whether or not the Defence will be allowed to call witnesses.

21. The special deposition proceedings in the *Mpiranya* case started on 19 October 2011; the single judge has heard 12 Prosecution witnesses in 8 courtroom days. In the *Bizimana* case, proceedings are scheduled to start on 21 November 2011. In both

cases, the presiding judges have issued decisions ordering the disclosure of relevant material to the Duty Counsel representing the interests of the fugitive accused and setting the schedule of the proceedings.

Decisions of the President

22. On 23 May 2011, the President issued a decision ordering the transfer of a detainee from the United Nations detention facility to serve his sentence in a Member State.

23. On 24 October 2011, the President granted the early release of Michel Bagaragaza from 1 December 2011 after three fourths of his sentence has been served. The President noted that this decision was not intended to set a precedent and that future requests for early release would continue to be considered on a case-by-case basis.

B. Activities of the Appeals Chamber

24. As at 4 November 2011, appellate proceedings had been concluded in respect of 37 persons. Since the last report in May 2011, the Appeals Chamber delivered two appeal judgements, in the *Setako* and *Munyakazi* cases. The Appeals Chamber also rendered 1 decision disposing of an interlocutory appeal, 4 decisions concerning post-appeal requests, and 64 pre-appeal orders and decisions.

25. A further two appeal judgements are expected to be delivered in 2011, for a total for the year of six appeal judgements; four appeal judgements are to be delivered in 2012, five appeals are expected to be disposed of by the end of 2013, and the remaining three appeal judgements will be delivered in 2014.

26. In its judgement of 28 September 2011, the Appeals Chamber affirmed Éphrem Setako's convictions for genocide, extermination as a crime against humanity, and violence to life (murder) as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II thereto, entered an additional conviction for violence to life (murder) as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II thereto, and affirmed his sentence of 25 years of imprisonment.

27. On the same day, the Appeals Chamber affirmed Yussuf Munyakazi's convictions for genocide and extermination as a crime against humanity and affirmed his sentence of 25 years of imprisonment.

The Appeals Chamber is presently seized of nine appeals from judgement

28. The Trial Judgement in the *Bagosora et al.* case was pronounced on 18 December 2008 and issued in writing on 9 February 2009. Théoneste Bagosora, Aloys Ntabakuze and Anatole Nsengiyumva appealed. The briefing in respect of the appeals was completed at the end of July 2010, and the appeals were scheduled to be heard from 30 March through 1 April 2011. The appeals of Bagosora and Nsengiyumva were heard as scheduled and deliberations and judgement drafting are now in progress. Due to unavailability of Ntabakuze's counsel to present his appeal at the scheduled time, the Appeals Chamber severed his case from the case of his co-appellants. Ntabakuze's appeal was heard on 27 September 2011 and deliberations and judgement drafting are in progress.

29. The trial judgement in the *Ntawukulilyayo* case was rendered on 3 August 2010 and issued in writing on 6 August 2010. Dominique Ntawukulilyayo filed his notice of appeal on 6 September 2010 and the briefing was completed in March 2011. The appeal was heard on 26 September 2011 and deliberations and judgement drafting are in progress.

30. The trial judgement in the *Kanyarukiga* case was rendered on 1 November 2010 and issued in writing on 9 November 2010. Both parties filed notices of appeal in December 2010 and the briefing was completed in June 2011. The appeals are currently being prepared for a hearing.

31. The trial judgement in the *Hategekimana* case was rendered on 6 December 2010 and issued in writing on 14 February 2011. Ildephonse Hategekimana filed his notice of appeal on 16 March 2011 and the briefing was completed in July 2011. The appeal is currently being prepared for a hearing.

32. The trial judgement in the *Gatete* case was rendered on 29 March 2011 and issued in writing on 31 March 2011. Both parties filed notices of appeal in May 2011 and the briefing is in progress.

33. The trial judgement in the "Military II" case was rendered on 17 May 2011 and issued in writing on 17 June 2011. All five parties expressed their intention to appeal and four of them filed their notices of appeal in July 2011. One party was granted an extension of time to file its notice of appeal no later than 30 days from the date on which the French translation of the trial judgement will be filed.

34. The trial judgement in the "Butare" case was rendered on 24 June 2011 and issued in writing on 14 July 2011. All seven parties expressed their intention to appeal and were granted extensions of time to file their notices of appeal. The Prosecution filed its notice of appeal in September 2011, five of the parties filed their notices of appeal in October 2011, and the remaining party is to file its notice of appeal no later than 90 days from the date on which it is served with the French translation of the trial judgement.

35. The trial judgement in the "Government II" case was rendered on 30 September 2011 and issued in writing on 19 October 2011. Thus far, one of the parties expressed an intention to appeal and has requested an extension of time to file its notice of appeal.

II. Measures implementing the completion strategy

36. The following section supplements prior reports and highlights essential elements of the Tribunal's efforts to comply with its completion strategy.

A. Judicial calendar and management of proceedings

37. Because of the progress made on the major multi-accused cases, the remaining workload of the Tribunal, including completing trials and delivering trial judgements in six cases involving seven accused, is expected to be completed by mid-2012. The Tribunal continued to realize gains from increased efficiencies in trial management during the reporting period. This is evidenced by that fact that

more than two thirds of trial judgements were delivered according to the time estimates in the previous report.

38. The Tribunal continues to devise solutions to minimize the crippling challenges that it faces. It remains committed to the completion strategy, and all organs are working extremely hard to complete its mandate efficiently. However, every month of the reporting period, key staff members departed from the Tribunal, including nearly one third of Chambers legal staff, who left for more stable employment, including 4 out of 11 judgement coordinators.

39. During the reporting period, two major multi-accused trial judgements involving 10 accused were delivered on or before the date projected in the previous completion strategy report.[5] One other multi-accused judgement was delivered on 30 September 2011, a month after the date estimated in the last report, owing to the departure of a judgement coordinator less than one month before the anticipated delivery date. The Trial Chambers are preparing for delivery of the last multi-accused judgement before the end of the year in line with projections in the last two reports.[6] Therefore, the Tribunal continues to stay on track to complete all of its trial work by mid-2012.

40. There remains a substantial amount of work to be completed by the Tribunal in order to ensure that the Residual Mechanism is a small, efficient institution: as detailed in the previous chapter, the Chambers are currently considering motions under Rule 11 bis for the referral of four cases to Rwanda. Of these, two accused are in custody, and the other two are fugitives. Evidence preservation hearings pursuant to Rule 71 bis have already begun in two cases and a third is expected to begin this month. All are expected to be completed before mid-2012. Further, there remain approximately 500 witness protection orders that must be reviewed, in order to alleviate the Residual Mechanism of the task of monitoring protected witnesses who no longer need protection. Finally, it is still projected that the Tribunal will have multiple contempt trials beginning in 2012, which must be heard prior to its closure.

41. It is vital that the Tribunal maintain the necessary resources in its remaining time so that it may complete all necessary work within current projections.

B. Judges and staff management

1. Judges

42. Currently, four permanent judges and nine ad litem judges are serving the Tribunal at the trial level.

43. One ad litem judge and one permanent judge will demit office when the *Ndahimana* and *Karemera et al.* judgements are delivered in November and December 2011, respectively. That will leave three permanent judges and eight ad litem judges from January 2012. All three permanent judges will be assigned to the Appeals Chamber after the completion of their trial work. It is projected that the remaining ad litem judges, therefore, will be needed to complete the review of witness protection orders and anticipated contempt cases.

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[5] "Butare" and "Military II" cases.

[6] *Karemera et al.* case.

44. Judge Khalida Rachid Khan was elected as President of the Tribunal in May 2011, and Judge Vagn Joensen was elected to the position of Vice-President in August 2011. In this regard, the Tribunal wishes to thank the Security Council for its efforts in passing resolution 1995 (2011), which allows ad litem judges to vote for and be elected as President and Vice-President. This will allow for a smooth transition from the Tribunal to the Residual Mechanism by ensuring that there is no gap in the presidency owing to the departure of all remaining permanent judges.

2. Staff management and budget

45. As indicated in earlier reports, staff retention and separation continue to be major challenges. The Tribunal has experienced difficulty in the recruitment of suitably qualified candidates in some specialized areas of work, particularly given the expectation that the work of the Tribunal will be swiftly concluded and therefore contracts will be of a short-term duration. The Tribunal also has difficulties in retaining experienced staff who, given the lack of financial incentives to stay with the Tribunal to complete their work and their reduced contractual security, have been leaving the Tribunal in increasing numbers to accept offers of employment elsewhere, either within or outside the United Nations system. This may adversely impact the successful and timely implementation of the completion strategy. The downsizing process that began in the 2008-2009 period has continued in 2010 and 2011 and well into the 2012-2013 period, with the proposed abolition of 212 posts representing 34 per cent of the authorized level for the 2010-2011 period.

46. The budget of the Tribunal for the biennium 2012-2013 includes retention of a minimum level of competent, committed and experienced staff for the core functions of the Tribunal that are critical to avoid further delays in the finalization of trials and the delivery of judgements. The proposal of the Tribunal reflects significantly reduced resources taking into account the updated completion strategy of the Tribunal and the decision of the Security Council in its resolution 1966 (2010) in respect of work that will be assumed by the Arusha branch of the Residual Mechanism. As the Mechanism will coexist with the Tribunal for 18 months of the biennium 2012-2013, administrative resource requirements for the two organizations have been harmonized to avoid duplication and to benefit from economies of scale. The proposal has therefore provided for the sharing of resources for common services and the provision of support through double-hatting arrangements among the staff members of the two entities.

47. The Tribunal is currently processing contract extensions into the next biennium in line with the schedule of trials in respect of staff members whose tasks are still considered essential. The contract renewals should assist in upholding staff morale and increasing staff retention during the preclosure phase.

48. The Tribunal continues to receive the support of the Department of Management, especially at the Office of the Controller and Human Resources Management, to explore and adopt additional measures and a common strategy to address the challenges of downsizing and separation of staff, including the establishment of the outplacement office to assist the Tribunal staff who have applied for various positions in the United Nations.

C. Work of the Office of the Prosecutor

49. Commensurate with the heavy workload in Chambers, the Office of the Prosecutor continued to focus its efforts on the completion of ongoing trials and appeals, tracking the remaining fugitives, pursuing the referral of cases to national jurisdictions and conducting proceedings for the preservation of evidence in respect of three high-level fugitives, Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. In the light of Security Council resolution 1966 (2010), the Office of the Prosecutor has, in consultation with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, also been engaged in activities aimed at ensuring a smooth transition to the Residual Mechanism, such as working out its projected staffing and its budget and aligning the Tribunal's archiving strategy and the security of the archives with the projected takeover of the management of archives by the Residual Mechanism in July 2012.

1. Workload

50. During the reporting period, the activities of the Prosecution Division of the Office of the Prosecutor focused mainly on completing the remaining trials of six accused in the *Karemera et al.*, *Ndahimana*, *Nzabonimana*, *Nizeyimana* and *Ngirabatware* cases. In addition, renewed efforts in securing the referral of cases to Rwanda, pursuant to Rule 11 bis, resulted in an order for the referral of the case of *Jean Uwinkindi* by the Trial Chamber in June 2011. The matter is now on appeal, with a final decision of the Appeals Chamber expected before the end of 2011. Three more applications for the referral of the cases of *Kayishema*, *Sikubwabo* and *Munyagishari* to the authorities of the State of Rwanda are pending before the Trial Chambers. A positive result in the *Uwinkindi* appeal, confirming the order of the Trial Chamber granting the Prosecutor's request for referral to Rwanda, will, hopefully, open the way for the referral of these and other cases to Rwanda. Such a development will take the Tribunal a giant step forward towards the completion of its work and closure. If, however, the referral order is not confirmed by the Appeals Chamber, the Tribunal will have to try the cases of *Uwinkindi* and *Munyagishari*, who are already in its custody. The two other cases (*Laurent Bucyibaruta* and *Wenceslas Munyeshyaka*) referred to France in November 2007 under Rule 11 bis remain with the French judiciary. The Office of the Prosecutor also commenced proceedings for the preservation of evidence under Rule 71 bis in respect of the three top priority fugitives (Félicien Kabuga, Protais Mpiranya and Augustin Bizimana), who are earmarked, in event of arrest, for trial by the Residual Mechanism. It is expected that hearings in these proceedings will be concluded before the end of 2011.

51. The Prosecutor also commenced the updating and the preparation of the files of the remaining fugitives. The preparation is intended to proceed up to the stage of filing the pretrial brief in each case. This is intended to ensure a proper and smooth handover to the Residual Mechanism and to reduce the volume of work of the Residual Mechanism. This will also ensure that the Office of the Prosecutor of the Residual Mechanism, with its limited staff capacity, is fully briefed on each of the cases in the event of an arrest. Equally, it ensures that any Member State to which a case may be referred pursuant to Rule 11 bis is fully briefed.

52. As stated in previous reports, the Office of the Prosecutor continues to intensify its efforts to track the remaining nine fugitives, in spite of the reduction in

its investigation resources. The Office is also continuing the diplomatic engagement with relevant States with a view to complementing the tracking activities of its Investigations Section. This is an aspect of the work of the Office that continues to meet huge challenges both in terms of tracking and States' cooperation. In addition to tracking fugitives, the Investigations Section has also provided support to ongoing trials and appeals, to proceedings for the preservation of evidence and to the management of witnesses of the Office of the Prosecutor.

53. The Information and Evidence Support Section of the Office of the Prosecutor has continued its support to ongoing trials and appeals and to proceedings for the preservation of evidence. In addition, the section is making very good progress in the archiving of the holdings of the Office of the Prosecutor and in championing related archiving regimes and security frameworks. In coordination with the Tribunal and the Archives and Records Management Section, the Information and Evidence Support Section continued with a merger of the Document Control Unit and the Archiving Unit into a single Document Control and Archiving Unit of the Tribunal in order to deal more effectively with the Office's documentation and archiving matters within the Residual Mechanism.

54. During the reporting period, there was a significant increase in research activity for the Appeals and Legal Advisory Division. The workload of the Information and Evidence Support Section also continued to increase as it grapples with the challenge of providing reliable information to appeals teams in the discharge of their functions.

55. The Appeals and Legal Advisory Division has been attending, among other matters, to the Rule 11 bis litigation detailed above. Additionally, during the reporting period, it was prosecuting or defending approximately 34 appeals from final judgements and sentences returned in 13 cases. It was also actively preparing for 12 additional potential appeals in the five cases where Trial Chamber judgements are anticipated near the end of 2011.

56. More particularly, the Appeals and Legal Advisory Division received favourable judgements affirming Trial Chamber convictions, sentences and orders in three cases, comprising five separate appeals: *Setako* case (defence and prosecution appeals); *Munyakazi* (defence and prosecution appeals) and *Nshogoza* (contempt appeal). The Division also has presented oral arguments before the Appeals Chamber in three other cases, comprising four separate appeals: *Bagosora et al.* case (two defence appeals), *Ntabakuze* case (defence appeal) and *Ntawukulilyayo* case (defence appeal). Additionally, it completed briefing in two cases, comprising three separate appeals: *Hategekimana* case (defence appeal) and *Kanyarukiga* case (defence and prosecution appeals). On 18 July 2011, the Prosecutor filed his appellant's brief in the *Gatete* case (prosecution and defence appeals). Moreover, multiple additional defence and prosecution appeals have been or are anticipated to be filed in connection with the Trial Chamber judgements returned in the three multi-accused cases: "Military II", "Butare" and "Government II". The Prosecutor filed four separate appeals in the "Military II" case; his consolidated brief was filed on 3 October 2011. At this time, three defence notices of appeal have been filed and a fourth notice is possible when translation of the "Military II" judgement is completed. The Prosecutor filed one appeal in the "Butare" case; his appellant's brief will be filed in early November 2011. At the time of writing this report, five defence appeals had been filed and a sixth notice of appeal is possible when

translation of the "Butare" judgement is completed. The time for appeal in the "Government II" case has not yet commenced, but a total of six additional appeals (four prosecution and two defence) will be filed before the end of 2011.

57. In addition to appeals from final judgements and sentences, the Appeals and Legal Advisory Division continued to work on interlocutory appeals and post-conviction review proceedings. Responses to three new interlocutory appeals were filed in three cases (*Ngirabatware*, *Uwinkindi* and *Nzabonimana*) during the responding period. Responses to two post-conviction review applications (*Kajelijeli* and *Kamuhanda*) were also submitted; four review applications remain pending at this time. In anticipation of Trial Chamber judgements in the five remaining trials (*Ndahimana*, *Karemera et al.*, *Nzabonimana*, *Nizeyimana* and *Ngirabatware*), attorneys of the Appeals and Legal Advisory Division are also preparing comprehensive appeal readiness reports. These reports will assist the appeals teams assigned to those cases in drafting legal advisories to assist the Prosecutor in determining whether to appeal any potential adverse judgements or rulings.

2. Cooperation of the Office of the Prosecutor with Member States

58. During the reporting period, there was a positive signal for international cooperation against impunity and for accountability at the highest levels. Several Member States continued to enhance their efforts to bring to trial, within their national jurisdictions, the Rwandan suspects appearing on the list of the International Criminal Police Organization (Interpol) of wanted fugitives. The continuous support by the Tribunal for such national efforts strengthens its legacy and ultimate objective to support and build the institutions of international law through the principle of complementarity. The Office of the Prosecutor continues therefore to provide mutual legal assistance and information to national prosecuting authorities, including Rwanda. As a result, requests to the Prosecutor for information from the Office of the Prosecutor's extensive database increased substantially over the reporting period and are expected to continue to increase in the forthcoming years. In the previous reporting period, the Office of the Prosecutor processed 53 requests from 24 Member States. In the period under review, it responded to 71 requests received from 14 Member States. It has continued preparations for the establishment of a dedicated, efficient and experienced response mechanism for such requests that would quickly transfer to the Residual Mechanism's jurisdiction on 1 July 2012.

59. Efforts at tracking the remaining nine fugitives continue, with a focus on the Democratic Republic of the Congo, the neighbouring Great Lakes countries and countries in the Southern African region. Rigorous tracking efforts led to the arrest of the fugitive Bernard Munyagishari on 25 May 2011 by the authorities of the Democratic Republic of the Congo in cooperation with officers of the tracking team of the Office of the Prosecutor. The Prosecutor is confident that the continued cooperation of the Democratic Republic of the Congo will facilitate the arrest of the majority of the fugitives who are still in that territory. The Prosecutor continued to pursue efforts to visit the Democratic Republic of the Congo once again to seek support at the highest levels for the efforts of the Office of the Prosecutor at tracking the fugitives in the country. Cooperation with and support from the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo also intensified in this regard.

60. The work of the joint International Criminal Tribunal for Rwanda/Kenya Police Task Force, reactivated in November 2010, in respect of the tracking of the key fugitive Félicien Kabuga remains slow. The main issues still revolve around relevant and credible information of Félicien Kabuga's whereabouts within the country or adequate proof of his alleged departure from Kenya and the investigation and sequestering of his assets in the country. The Prosecutor continues to seek due diligence from Kenya in the discharge of its international obligations pursuant to Security Council resolution 1966 (2010) by expediting work on the tracking and arrest of this top-level fugitive.

61. Concerted efforts by Member States of the Great Lakes region in collaboration with the International Criminal Tribunal for Rwanda hold the promise of arresting and bringing to account the remaining fugitives, thus substantially assisting the Prosecutor in meeting the completion strategy targets. Such arrests would also reduce the Residual Mechanism's responsibility and costs for tracking fugitives.

3. Staffing

62. Serious challenges continue to plague the implementation of the completion strategy. Staff attrition has been most severe in relation to trials and the investigative support that they depend on. Owing to the early abolition of posts, both the Prosecution Division and the Information and Evidence Support Section have seen substantial staff losses. On the one hand, the Office of the Prosecutor has sought to ameliorate the impact of staff departures through temporary appointments. On the other hand, those efforts are handicapped by the unwillingness of potential candidates to join a closing institution and the limitations imposed by the rules governing temporary appointments. The limitations pose the challenge that the Prosecutor will not have staff to complete the *Nizeyimana* trial between 1 and 9 December 2011. Challenges relating to the implementation of the judicial calendar indicate that the trial of Augustin Ngirabatware may not be completed during 2011, as had been projected. Its spillover to 2012 would also pose additional staffing challenges to the Office of the Prosecutor.

D. Cooperation between Member States and the Tribunal

63. Efficient cooperation with Member States remains a cornerstone of the Tribunal's success in completing its mandate. This relates in particular to ensuring the arrests of the remaining fugitives, the possible referral of cases to national jurisdictions, the transfer of convicts for the enforcement of their sentence, and the relocation of acquitted persons and persons who have served their sentence. From January 2011 to date, more than 235 notes verbales and other diplomatic correspondence have been dispatched to various Governments through their embassies located in Dar es Salaam.

64. The report on the work of the Office of the Prosecutor[7] highlights close cooperation with regard to the arrest of fugitives, the preparation of referrals to national jurisdictions, and assistance to national prosecuting authorities.

[7] See paras. 52 to 61.

65. The Office of the Registrar, through its External Relations and Strategic Planning Section, has continued to request and obtain judicial assistance and cooperation from Member States on behalf of the Defence teams so as to enable them to present their evidence.

66. On 27 July 2011, one convicted person was transferred from the United Nations detention facility at Arusha to a Member State to serve the remainder of his sentence.

67. Moreover, the Registrar continued to deploy all efforts to find host countries for the five acquitted persons who remain in the safe houses in Arusha under the Tribunal's protection. For one of the individuals, it has been five years since the confirmation of his acquittal by the Appeals Chamber. The challenge to relocation is the unfortunate result of the absence of a formal mechanism to secure the support of Member States to accept these persons within their territories. The statute is silent in this respect and the cooperation of Member States as required by article 28 of the statute does not extend to the relocation of acquitted persons. The Tribunal considers the resettlement of persons acquitted by an international criminal tribunal to be a fundamental expression of the rule of law and is concerned about the consequences of failing to fulfil this obligation. In the light of the imminent closure of the Tribunal, the insufficient level of voluntary Member State cooperation and the human rights implications of the delayed relocation of acquitted persons, and in spite of the assistance of the Office of the United Nations High Commissioner for Refugees, the Tribunal has had no other choice but to call upon the assistance of the Security Council to find a sustainable solution to this issue.

E. Outreach and capacity-building

68. The Tribunal has continued to improve awareness of its work through its outreach programme in showcasing, disseminating and sensitizing the people of the Great Lakes region and visitors to the Tribunal's Offices in Rwanda and Tanzania about its achievements and challenges in the implementation of its completion strategy. In this regard, the Tribunal, during the period under review, welcomed to its seat more than 1,700 visitors, including 120 officials from various national Governments, United Nations agencies and academia.

69. The Tribunal's information and documentation centres scattered across Rwanda remain the flagship initiative of its outreach programme in Rwanda. Their activities are intensifying as part of the Tribunal's completion strategy and legacy. The main centre in Kigali, Umusanzu Centre, alone receives approximately 100 visitors per day. These visitors are mainly students, international and local researchers, legal professionals, journalists and others.

70. From May to July 2011, with funds from the Department of Public Information of the United Nations Secretariat, awareness-raising programmes for lessons learned from the Genocide of 1994 were successfully conducted in six major prisons throughout Rwanda. The total number of prison inmates and prison officials who attended the three-day workshops in each of the six prisons was approximately 29,800.

71. Capacity-building activities for legal professionals in Rwanda were continued during the reporting period; 15 military judges from the Rwandan Military Tribunal

were trained in online legal research methodology by learning how to access legal information and materials, including the jurisprudence of the International Criminal Tribunal for Rwanda.

72. This activity will continue as contacts have been made to extend the training to other legal professionals from the Rwandan justice sector and higher institutions of learning. In May 2011, the fourth training workshop and Moot Court Competition for members of the Kigali Bar Association were conducted for approximately 100 participants.

73. In recent years, the International Criminal Tribunal for Rwanda has established a fruitful framework of cooperation with Rwanda's legal institutions, namely in the area of capacity-building. In this context, the Legal Library and Reference Section, in collaboration with the External Relations and Strategic Planning Section, sensitized, through workshops, six academic and research institutions' stakeholders (lecturers, dean of faculty, vice rectors and rectors) on the role of open access initiatives, including the opportunity to access, free of charge, electronic resources available for developing countries. During the workshops, the Legal Library and Reference Section disseminated the jurisprudence of the Tribunal to Rwanda's university community.

74. The Legal Library and Reference Section also organized two "training of trainers" sessions on online legal research methodology in collaboration with the Rwanda Institute of Legal Practice and Development. The training allowed 30 lawyers, members of the Kigali Bar Association, to be trained as trainers so that they may sustain the capacity-building programme on online legal research after the completion of the mandate of the Tribunal.

75. The Legal Library of the Tribunal continued to widely distribute the 2010 version of the Tribunal's DVD and CD-ROM of basic documents and case law, especially in Rwanda. These tools are copies of the online version of the Tribunal's case law database available at www.ictrcaselaw.org.

76. During the reporting period, the Gender Focal Point continued to solicit funds to replenish the depleted Trust Fund for the Support Programme for Witnesses to ensure the provision of physical and psychological care to witnesses residing in Rwanda, in particular those living with HIV and AIDS. Without a prompt injection of financial contribution from Member States, the Tribunal's clinic risks having to halt the provision of its daily support, which is vital to the lives of many.

F. Residual Mechanism

77. The International Criminal Tribunal for Rwanda has been working closely with the International Tribunal for the Former Yugoslavia, under the coordination of the Office of Legal Affairs of the United Nations Secretariat, to implement Security Council resolution 1966 (2010), which established the International Residual Mechanism for Criminal Tribunals and requested the Secretary-General to make all practical arrangements necessary for the commencement of its operations.

78. The International Criminal Tribunal for Rwanda has also continued its work on the recommendations contained in the last paragraph of the report of the Secretary-General on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia

and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258) of 21 May 2009.

79. With the commencement of its Arusha branch on 1 July 2012, the Mechanism will begin to carry out the residual functions of the Tribunals pursuant to resolution 1966 (2010), the statute and the transitional arrangements. In order to ensure the coordinated transition of the Tribunals' functions to the Mechanism and the prompt commencement of its operations, the Tribunals have continued with the implementation of the activities set out by the action plan they jointly developed in April 2011.

80. The initial priority was to develop the budget proposal for the Mechanism for the biennium 2012-2013. The Tribunals prepared a joint draft proposal for consideration by the Office of Legal Affairs, which then submitted the reviewed proposal to the United Nations Controller on 15 June 2011.

81. In keeping with the proposed budget submission, the Mechanism will be a "small and lean" entity, as mandated by resolution 1966 (2010), while remaining equipped with the necessary resources to successfully perform its mandate.

82. Following commencement, the Mechanism will have a small staff component for its continuing functions to carry out activities mandated by the Security Council, which the Mechanism will carry out at all times, irrespective of whether it is conducting any trials or appeals. These activities include the protection of witnesses, the supervision of enforcement of sentences and the management of the archives. The Mechanism will be able to rapidly scale-up to carry out ad hoc activities, mandated by the Security Council, primarily related to the conduct of trials and appeals falling under the jurisdiction of the Mechanism, which may occur from time to time, and will require additional temporary resources during peak times.

83. As the Mechanism will coexist with the Tribunals during the biennium 2012-2013, the budget proposal envisages that the Mechanism and the Tribunals will share resources and provide mutual support, particularly through the use of "double-hatted" staff and common services. Of the total 97 proposed posts for continuous functions, it is recommended that 67 posts be established and included in the budget. It is further recommended that the functions and the responsibilities of the remaining 30 posts be covered by staff from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia through the "double-hatting" arrangement.

84. The Office of Legal Affairs prepared the first draft Rules of Procedure and Evidence of the Mechanism. On 22 July 2011, the Tribunals submitted to the Office of Legal Affairs a joint set of detailed comments on the draft. Pursuant to resolution 1966 (2010), the Rules of Procedure and Evidence of the Mechanism are based on those of the Tribunals and are subject to the resolution and the statute. The Tribunals' comments drew heavily from their collective experience and lessons learned in order to provide the Mechanism with the best legal tool to efficiently and fairly adjudicate the matters that may come before it.

85. The draft incorporating the Tribunals' input has been shared by the Office of Legal Affairs with the Security Council Informal Working Group on International Tribunals for comments. It is anticipated that the Tribunals will be requested to provide additional observations, with the purpose of the final draft of the Rules of

Procedure and Evidence being finalized by the end of the year for subsequent consideration and adoption by the judges of the Mechanism.

86. Further, the comprehensive review of existing agreements and contracts signed by the International Criminal Tribunal for Rwanda is ongoing, with the aim of determining which of the agreements and contracts should continue to be in force for the Mechanism, and, if so, whether any amendments would be required to suit the needs and specificities of the Mechanism's operations. In August, the International Criminal Tribunal for Rwanda provided substantive input to the first draft of the host country agreement for the Mechanism prepared by the Office of Legal Affairs. Discussions between the Office of Legal Affairs and the Permanent Mission of the United Republic of Tanzania are ongoing.

87. The comprehensive review of the judicial governance policies of the International Criminal Tribunal for Rwanda is ongoing, while the review of administrative governance policies is expected to commence at the beginning of November. This review, which is being conducted in close coordination with the International Tribunal for the Former Yugoslavia, aims at determining which policies will be required by the Mechanism for the performance of its operations. The review will further consider the differences, if any, among existing policies of the Tribunals and whether any harmonization may be possible and opportune.

88. Discussions with the Office of Legal Affairs and the Office of Human Resources Management are ongoing with respect to administrative matters, including the status of the Mechanism staff, post classification, the delegation of authorities and the recruitment of the Mechanism's advance team, which will carry out transition activities from January to June 2012. With respect to the status of the Mechanism staff, the Tribunals have expressed the view that the Mechanism staff should be considered as Secretariat staff. This determination would assist in the smooth and efficient functioning of the Mechanism by attracting and retaining the most qualified staff, and would allow a streamlined human resources administration through the consistent application of Secretariat policies.

89. In order to assist the coordinated transition of the victims and witnesses protection function to the Mechanism, and in compliance with paragraph 259 (l) (ii) of the report of the Secretary-General of 21 May 2009 (S/2009/258), the International Criminal Tribunal for Rwanda has been considering ways to review witness protection orders with a view to withdrawing or varying those that are no longer necessary. The Trial Chamber has issued several orders for rescission of protective measures for witnesses who are deceased and have no remaining family members for whom protective measures may also be required. The Registry, through its Witness and Victims Support Section, and the Foreign Request Unit of the Office of the Prosecutor remain responsible for submitting further requests for the review of protective measures for witnesses falling under identified categories within their respective functions.

90. The International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia have continued to plan the transition of the Tribunals' archives management function to the Mechanism. A meeting of the joint archives strategy working group was held in Arusha from 27 to 29 September 2011, which resulted in an array of agreed principles and actions between the Tribunals. The meeting successfully built upon the foundations laid in the previous meeting of the working group in February 2011. It also identified additional concrete measures to

be put in place with the aim of ensuring the smooth and timely preparation and transfer of the Tribunals' archives management to the Residual Mechanism.

91. The working group meeting also focused, among other matters, on the strategy for the transfer of the Tribunals' records to the Mechanism: while resolution 1966 (2010) vests the management of the archives with the Mechanism, the obligation to identify and prepare the records to be archived rests with the Tribunals. In order to ensure the crucial cooperation of substantive offices of the Tribunals in the identification and the preparation of records pursuant to the agreed "specifications for preparation", accountability mechanisms have been envisaged.

92. As recognized by the joint archives strategy working group at its meeting, the approval of the Tribunals' retention policies is a critical priority. The International Criminal Tribunal for Rwanda is in the process of reviewing the draft retention schedules developed by the International Tribunal for the Former Yugoslavia with the aim of identifying significant discrepancies and harmonizing variances. The comparison has been completed for all of the function schedules led by the Office of the Prosecutor and developed by the International Tribunal for the Former Yugoslavia and has commenced for the functions led by the Registry. The objective is the submission for review of a complete retention schedule for the records of the Tribunals by the end of 2011.

93. An information and communications technology (ICT) working group comprised of representatives of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia was created during the course of the September meeting of the joint archives strategy working group. The ICT working group has begun to develop the planning of the transition of the Tribunals' ICT systems and infrastructure to the Mechanism's ICT systems and infrastructure, which will be designed and implemented to service the Mechanism's operations and needs.

94. The Tribunals have continued to work jointly on the finalization of the draft Secretary-General's bulletin on information sensitivity, classification, handling and access for the records of the Tribunals and the Mechanism. The International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia have made revisions to the policy in accordance with feedback received from the Archives and Records Management Section, and have submitted the revised version to the Office of Legal Affairs for its consideration.

95. The International Criminal Tribunal for Rwanda has developed procedures for the implementation of orders for the declassification of records as a result of the rescission of witness protection measures, and is working in collaboration with the International Tribunal for the Former Yugoslavia towards the development of procedures for the declassification of records, in accordance with the draft classification policy.

96. The remainder of the archiving activities of the International Criminal Tribunal for Rwanda are ongoing and progress has been made. A summary of the progress made as at 4 November 2011 is as follows:

(a) *Arrangement and verification of the original judicial records*: The arrangement of the original paper-based transcripts, exhibits and case file documents has been completed. The appraisal and disposition of all judicial records maintained by the Appeals Chambers Support Section in The Hague is complete.

The verification of the hard copy transcripts against the electronic versions is complete for all 19,250 original transcripts created to date. The rehousing of the original transcripts commenced in May 2011; to date, nearly 2,000 binders of original transcripts have been rehoused in archival enclosures. This represents approximately 75 per cent of the original transcripts, and approximately 35 per cent of all judicial records.

(b) *Digitization and redaction of the audio-visual material*: The digitization of the entire backlog (35,000 hours) of the audio-visual recordings of the trial proceedings was completed in August 2011, and the procedures for the digitization of all incoming audio-visual recordings have been developed and implemented. The redaction of the audio recordings is under way; 6,000 hours of recordings (2,000 hours of proceedings) have been redacted to date. This represents approximately 10 per cent of the total number of hours of recordings to be redacted.

(c) *Management of digital records*: Archives and records management staff are currently in the process of conducting consultations with relevant stakeholders to assist in the development of TRIM datasets for the management of the records of the various sections of the International Criminal Tribunal for Rwanda. This includes assisting in the identification of the records to be maintained by the various offices and providing guidance on the compliant disposition of records, as well as assisting in the development of file plans and records types and the identification of the metadata requirements for the records. To date, six TRIM datasets have been developed and are in active use by the Tribunal. The Tribunal retained the services of a digital recordkeeping consultant to further assist in the inventory and appraisal of the digital records and recordkeeping systems in use across the Tribunal, and to provide assistance in the development of a digital recordkeeping strategy. Following the start of the assignment of the consultant on 21 October 2011, the initial phase of the inventory component of the consultancy commenced.

(d) *Management of non-judicial paper records*: The work of sorting, processing, arranging and, where appropriate, rehousing, scanning and data entry of records has expanded beyond the Office of the Prosecutor and administrative records to include the non-judicial records of the Judicial and Legal Services Division. This is being conducted concurrently with the activities described above for the management of digital records. A consultancy for the refurbishment of space in the Arusha International Conference Centre complex to establish a compliant records repository was completed in October, and construction is anticipated to be completed in the first quarter of 2012.

III. Conclusion and updated prognosis regarding the implementation of the completion strategy

97. Despite continued staffing challenges, the International Criminal Tribunal for Rwanda remains at or close to completion of all trial work as projected in the completion strategy report issued in May 2011 (S/2011/317). The Trial Chambers rendered the three multi-accused judgements that were projected for the present reporting period, and the pretrial phase began for one accused who was recently arrested. For the first time, a case was referred by the Tribunal to Rwanda, and we anticipate a final decision on the appeal to be rendered shortly. Only five trial judgements remain to be delivered, two of which are anticipated before the end of

2011, including the last of the multi-accused, which will be delivered in line with its projections since 2010. All of this work is being done while the Tribunal staff has helped lay the foundation to create a small and efficient Residual Mechanism.

98. However, there remains a substantial amount of work to be completed by the Tribunal, including completion of the remaining trial judgements, evidence preservation hearings, anticipated contempt cases, and review of more than 500 witness protection orders. There is also the potential for at least one further trial by the Tribunal beginning in early 2012 if the referral of *Uwinkindi* to Rwanda is not upheld on appeal.

99. It is vital that the Tribunal maintain the necessary resources in its remaining time, especially in Chambers and the Office of the Prosecutor, so that it may complete all necessary work within current projections. The continued attrition of experienced staff along with difficulties in the recruitment of suitably qualified candidates may impact adversely on the successful and timely implementation of the completion strategy.

100. In its final months, the entire Tribunal has rededicated itself to the mandate of challenging impunity in line with completion strategy targets. The Tribunal wishes to thank its remaining staff for their continued dedication amid an increased workload and the challenges of closing. We hope that our work will continue to serve as a lasting testament to international criminal justice through efforts to preserve our legacy for generations to come.

Annex I.A

Trial judgements delivered as at 4 November 2011: 50 judgements concerning 70 accused

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Judgement*
1	J.-P. Akayesu	Bourgmestre of Taba	30 May 1996	I	2 September 1998
2	J. Kambanda	Prime Minister	1 May 1998	I	4 September 1998 (guilty plea)
3	O. Serushago	Businessman, Interahamwe leader	14 December 1998	I	5 February 1999 (guilty plea)
4	C. Kayishema	Prefect of Kibuye	31 May 1996	II	21 May 1999 (joinder)
	O. Ruzindana	Businessman	29 October 1996		
5	G. Rutaganda	Businessman, Second Vice-President of Interahamwe	30 May 1996	I	6 December 1999
6	A. Musema	Businessman	18 November 1997	I	27 January 2000
7	G. Ruggiu	Journalist, Radio-télévision libre des mille collines	24 October 1997	I	1 June 2000 (guilty plea)
8	I. Bagilishema	Bourgmestre of Mabanza	1 April 1999	I	7 June 2001
9	G. Ntakirutimana	Doctor	2 December 1996	I	21 February 2003 (joinder)
	E. Ntakirutimana	Pastor	31 March 2000		
10	L. Semanza	Bourgmestre of Bicumbi	16 February 1998	III	15 May 2003
11	E. Niyitegeka	Minister of Information	15 April 1999	I	15 May 2003
12	J. Kajelijeli	Bourgmestre of Mukingo	19 April 1999	II	1 December 2003
13	F. Nahimana	Director, Radio-télévision libre des mille collines	19 February 1997	I	"Media" case (joinder) 3 December 2003
	H. Ngeze	Editor, *Kangura*	19 November 1997		
	J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
14	J. Kamuhanda	Minister of Culture and Education	24 March 2000	II	22 January 2004

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Judgement*
15	A. Ntagerura	Minister of Transport	20 February 1997	III	"Cyangugu" case (joinder) 25 February 2004
	E. Bagambiki	Prefect of Cyangugu	19 April 1999		
	S. Imanishimwe	Lieutenant, Forces armées rwandaises	27 November 1997		
16	S. Gacumbitsi	Bourgmestre of Rusumo	20 June 2001	III	17 June 2004
17	E. Ndindabahizi	Minister of Finance	19 October 2001	I	15 July 2004
18	V. Rutaganira	Councillor of Mubuga	26 March 2002	III	14 March 2005 (guilty plea)
19	M. Muhimana	Councillor of Gishyita	24 November 1999	III	28 April 2005
20	A. Simba	Lieutenant-Colonel, Forces armées rwandaises	18 March 2002	I	13 December 2005
21	P. Bisengimana	Bourgmestre of Gikoro	18 March 2002	II	13 April 2006 (guilty plea)
22	J. Serugendo	Technical Director, Radio-télévision libre des mille collines	30 September 2005	I	12 June 2006 (guilty plea)
23	J. Mpambara	Bourgmestre of Rukara	8 August 2001	I	12 September 2006
24	T. Muvunyi	Interim Commander, École des sous-officiers	8 November 2000	II	12 September 2006
25	A. Rwamakuba	Minister of Education	7 April 1999	III	20 September 2006
26	A. Seromba	Priest, Kivumu Commune	8 February 2002	III	13 December 2006
27	J. Nzabirinda	Youth organizer	27 March 2002	II	23 February 2007 (guilty plea)
28	J. Rugambarara	Bourgmestre of Bicumbi	15 August 2003	II	16 November 2007 (guilty plea)
29	GAA	Witness before the Tribunal	10 August 2007	III	4 December 2007 (contempt of Tribunal)
30	F. Karera	Prefect of Kigali	26 October 2001	I	7 December 2007
31	S. Nchamihigo	Deputy Prosecutor of Cyangugu	29 June 2001	III	24 September 2008
32	S. Bikindi	Musician	4 April 2002	III	2 December 2008
33	P. Zigiranyirazo	Businessman	10 October 2001	III	18 December 2008

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Judgement*
34	T. Bagosora	Director of Cabinet, Ministry of Defence	20 February 1997	I	"Military I" case (joinder) 18 December 2008
	G. Kabiligi	Brigadier-General, Forces armées rwandaises	17 February 1998		
	A. Ntabakuze	Battalion Commander, Forces armées rwandaises	24 October 1997		
	A. Nsengiyumva	Lieutenant-Colonel, Forces armées rwandaises	19 February 1997		
35	E. Rukundo	Chaplain	26 September 2001	II	27 February 2009
36	C. Kalimanzira	Directeur de Cabinet, Ministry of the Interior	14 November 2005	III	22 June 2009
37	L. Nshogoza	Former defence investigator	11 February 2008	III	2 July 2009 (contempt of court case)
38	T. Renzaho	Prefect of Kigali-Ville	21 November 2002	I	14 July 2009
39	M. Bagaragaza	Director General of Government office controlling the tea industry	16 August 2005	III	5 November 2009 (guilty plea)
40	H. Nsengimana	Rector, Christ-Roi College	16 April 2002	I	17 November 2009
41	T. Muvunyi	Interim Commander, École des sous-officiers camp	8 November 2000	III	11 February 2010 (retrial)
42	E. Setako	Lieutenant-Colonel	22 November 2004	I	25 February 2010
43	Y. Munyakazi	Interahamwe leader	12 May 2004	I	30 June 2010
44	D. Ntawukulilyayo	Sub-prefect of Butare préfecture	10 June 2008	III	3 August 2010
45	G. Kanyarukiga	Businessman	22 July 2004	II	1 November 2010
46	I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	II	6 December 2010
47	J.-B. Gatete	Bourgmestre of Murambi	20 September 2002	III	29 March 2011

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Judgement*
48	A. Ndindiliyimana	Chief of Staff of Gendarmerie	27 April 2000	II	"Military II" case (joinder) 17 May 2011
	F.-X. Nzuwonemeye	Battalion Commander, Forces armées rwandaises	25 May 2000		
	I. Saguhutu	Second-in-Command, Reconnaissance Battalion	28 November 2000		
	A. Bizimungu	Chief of Staff, Forces armées rwandaises	21 August 2002		
49	P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	II	"Butare" case (joinder) 24 June 2011
	A. S. Ntahobali	Interahamwe leader	17 October 1997		
	S. Nsabimana	Prefect of Butare	24 October 1997		
	A. Nteziryayo	Prefect of Butare	17 August 1998		
	J. Kanyabashi	Bourgmestre of Ngoma	29 November 1996		
	E. Ndayambaje	Bourgmestre of Muganza	29 November 1996		
50	C. Bizimungu	Minister of Health	3 September 1999	II	Bizimungu et al. (joinder) 30 September 2011
	J. Mugenzi	Minister of Commerce	17 August 1999		
	J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
	P. Mugiraneza	Minister of Civil Service	17 August 1999		

Annex I.B

Cases where trial judgement delivery is awaited: three cases concerning four accused

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Comments*
51	E. Karemera	Minister of Interior and Vice-President of Mouvement républicain national pour le développement	7 April 1999; further appearances 23 February 2004 and 21 March 2005	III	"Karemera et al." case (joinder). Started on 27 November 2003. Started *de novo* on 19 September 2005. Third accused J. Nzirorera died on 1 July 2010 and proceedings against him were terminated. Evidence completed in February 2011. Closing arguments were heard in August 2011. Judgement expected December 2011.
	M. Ngirumpatse	Director-General, Ministry of Foreign Affairs and President of Mouvement républicain national pour le développement	7 April 1999; further appearances 23 February 2004 and 21 March 2005		
52	G. Ndahimana	Bourgmestre of Kivumu	28 September 2009; further appearance 9 February 2010	III	Started on 6 September 2010. Judgement expected 17 November 2011.
53	C. Nzabonimana	Minister of Youth in the Interim Government	20 February 2008	III	Started on 9 November 2009. Closing Arguments were heard on 20 and 21 October 2011. Judgement expected March 2012.

Annex I.C

One case where trial is closed but closing arguments are yet to be heard

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Comments*
54	I. Nizeyimana	Second-in-Command, École des sous-officiers	4 October 2009; further appearances on 5 March and 7 October 2010	III	Started on 17 January 2011. Closing arguments scheduled for 7 and 8 December 2011. Judgement expected first quarter 2012.

Annex I.D

Ongoing trials: one case concerning one accused

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Comments*
55	A. Ngirabatware	Minister in the Interim Government	10 October 2008; further appearance on 9 February 2009	II	Started on 31 August 2009. Completion expected first quarter 2012. Judgement expected June 2012.

Annex II

Awaiting trial: two accused in two cases

Case	*Name*	*Former title or position*	*Date of initial appearance*	*Trial Chamber*	*Expected date of commencement of trial*
1	J. Uwinkindi	Pastor, Nyamata	9 July 2010	III	Motion for referral to a national jurisdiction granted, pending appeal.
2	Bernard Munyagishari	Former President of Interahamwe for Gisenyi	20 June 2011	III	Motion for referral to a national jurisdiction pending.

Annex III

Nine fugitives

Augustin Bizimana
Félicien Kabuga
Fulgence Kayishema
Protais Mpiranya
Phénéas Munyarugarama
Aloys Ndimbati
Ladislas Ntaganzwa
Charles Ryandikayo
Charles Sikubwabo